

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

MARK B. HARRIS,

Plaintiff,

v.

JOSEPH LEHMAN,

Defendant.

Case No. C05-5379RBL

REPORT AND  
RECOMMENDATION TO  
DENY PLAINTIFF'S  
I.F.P. APPLICATION

Noted for July 29, 2005

The court has reviewed petitioner's application for leave to proceed *in forma pauperis* (Doc. 1). The court finds and recommends:

(1). Plaintiff's application indicates that he has \$1,158.00 in his account at the Special Commitment Center. (Dkt. # 1). He has no dependents.

(2). The district court may permit indigent litigants to proceed *in forma pauperis* upon completion of a proper affidavit of indigency. *See* 28 U.S.C. § 1915(a). However, the court has broad discretion in denying an application to proceed in forma pauperis. Weller v. Dickson, 314 F.2d 598 (9th Cir. 1963), *cert. denied*, 375 U.S. 845 (1963). Several district courts have ruled that denial of *in forma pauperis* status is not unreasonable when the plaintiff is able to pay the initial expenses required to commence a lawsuit. *See* Temple v. Ellerthorpe, 586 F.Supp. 848 (D.R.I. 1984); Braden v. Estelle, 428 F.Supp. 595 (S.D.Tex. 1977); U.S. ex rel. Irons v. Com. of Pa., 407 F.Supp. 746 (M.D.Pa. 1976); Shimabuku v. Britton, 357 F.Supp. 825 (D.Kan. 1973), *aff'd*, 503 F.2d 38 (10th Cir. 1974); Ward v. Werner, 61 F.R.D.

1 639 (M.D.Pa. 1974).

2 (3) Based on the above, the Court should deny plaintiff's application to proceed *in forma pauperis*,  
3 allow plaintiff a reasonable time period to pay the full filing fee. Given, the amount in plaintiff's savings  
4 account and his status as a resident of SCC, he has not shown that he is unable to pay the full filing fee  
5 (\$250.00).

6 (4) Pursuant to 28 U.S.C. § 636(b)(1) and Rule 72(b) of the Federal Rules of Civil Procedure, the  
7 parties shall have ten (10) days from service of this Report to file written objections. *See also* Fed.R.Civ.P.  
8 6. Failure to file objections will result in a waiver of those objections for purposes of appeal. Thomas v.  
9 Arn, 474 U.S. 140 (1985). Accommodating the time limit imposed by Rule 72(b), the clerk is directed to  
10 set the matter for consideration on **July 29th, 2005**, as noted in the caption.

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12  
13 DATED this 23<sup>rd</sup> day of June, 2005.

14  
15 /s/ J. Kelley Arnold  
16 J. Kelley Arnold  
United States Magistrate Judge  
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